GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Attachment of properties – Extension of period - Authorization to Inspector of Police, Crime Investigation Department- RCIU- Visakhapatnam to file petition before the District Judge, Visakhapatnam for attachment of properties under section 3 read with section 10(a) of the Criminal Law Amendment Ordinance, 1944 (Ordinance No. XXXVIII of 1944) – Accorded - Orders - Issued

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HOME (SC.B) DEPARTMENT

G.O.RT.No. 428 **Dated: 05-06-2018.**

Read the following:-

1. G.O.Rt.No. 236, Home (SC.B) Dept., dated: 31.01.1997
2. G.O.Rt.No.1137, Home (SC.B) Dept., dated:12.05.1997.
3. G.O.Rt.No.1044, Home (SC.B) Dept., dated:31.05.2008.
4. G.O.Rt.No.725, Home (SC.B) Department dated 21.4.2009.
5. G.O.Rt.No.871, Home (SC.B) Department dated 25.5.2010.
6. G.O.Rt.No.569, Home (SC.B) Department, dated.20.04.2011.
7. G.O.Rt.No.868, Home (SC.B) Department, dated.16.05.2012.
8. G.O.Rt.No.1052, Home (SC.B) Department, dated:29.04.2013.
9. G.O.Rt.No.932, Home (SC.B) Department, dated:06.08.2014.
10. G.O.Rt.No.632, Home (SC.B) Department, dated:30.05.2015.
11. G.O.Rt.No.373, Home (SC.B) Department, dated: 02.062016.
12. G.O. Rt. No. 674, Home (SC-B) Department, dated 10.8.2017
13. From the Additional Director General of Police, CID, A.P, Mangalagiri, Letter. C. No. 3382/C 51/CID/1996, dated 27..4.2018

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O R D E R:-

Whereas, the Government have issued orders in the references 1st and 2nd read above, authorizing the Additional Superintendent of Police, Crime Investigation Department, Regional Crime Investigating Unit, Visakhapatnam, to file a petition before the District Judge, Visakhapatnam, under section 3 read with section 10 (a) of the Criminal Law Amendment Ordinance, 1944 (Ordinance No. XXXVIII of 1944). As per the said Government Orders, a petition was filed under section 3 read with section 10 (a) of the Criminal Law Amendment Ordinance, 1944 before the District Judge, Visakhapatnam in OP No.1221/97 relating to Cr.No.327/96 under sections 466, 467, 468, 409, 420, 406, 471, 474, 419 read with section 120-B of the Indian Penal Code, 1860 (Central Act 45 of 1860) in Anakapalli Town Police Station for attachment of Scheduled properties annexed to Government Order 2nd read above. In the Government Order 5th read above, orders were issued extending the time for attachment of Scheduled properties mentioned in the Annexure to the Government Order 2nd read above up to 19.06.2011, as per the provisions of section 4 of the Criminal Law Amendment Ordinance, 1944.

2. And whereas, the above orders of attachment are being extended from time to time for a period of one year on each extension and last extended upto 16.06.2018, in the Government Order 12th read above.

3. And whereas, the Additional Director General of Police, Crime Investigation Department, Andhra Pradesh had stated that as per the directions of the High Court, Andhra Pradesh, the Crime Investigation Department has taken up investigation in Cr. No.327/96 under sections 468, 420, 406, and 120-B Indian Penal Code, 1860 (Act 45 of 1860) of Anakapalli Town Police Station and investigation was launched into 35 Land Acquisition Original Petitions on the file of Subordinate Judges Courts Chodavaram and Anakapalli, out of several Original Petitions which were involved in the scam. During the investigation, the movable properties (FDRs in Various Banks) immovable properties (Lands mentioned in Annexures I, II & III of the G.O.Rt.No.1137, dated 12.5.1997 first read above) which were acquired with the scam money by the accused were identified in the name of Peela Pothinaidu and his kith and kin and the said properties were got attached as per the provisions of section 3 and section 4 of the Criminal Law Amendment Ordinance, 1944.

4. And whereas, after completion of investigation, Crime Investigation Department submitted a report to the Registrar (Vigilance), High Court of Andhra Pradesh, as some of

(Contid…2)

the offences attract the provisions under section 340 read with section 195 (i)(b)(ii) and (iii) of the Code of Criminal Procedure, 1973. The Hon'ble High Court, on perusal of CID report directed the District Judge, Visakhapatnam to conduct enquiry under section 340 of the Code of Criminal Procedure, 1973 into all Land Acquisition O.Ps (Original petitions) on the file of Sub-Judge Courts of Anakapalli and Chodavaram and to file complaints in the competent Court against those who involved in the scam.

5. And whereas, the District Judge conducted enquiry under section 340 of the Code of Criminal Procedure, 1973 into all Land Acquisition Original Petitions and filed complaints in 25 Original Petitions pertaining to this case in the Court of Chief Judicial Magistrate-cum-III Additional District Judge, Visakhapatnam vide CC.Nos.74 to 82/2000 (9 Original Petitions), 118/2000 (1 Original Petition), 93 to 101/2000 (9 Original Petitions), 2,3,4/2000 (3 Original Petitions) 7/01 (1 Original Petition) and 109 & 110/2000(2 Original Petitions).

6. And whereas, in this context, the main accused Peela Pothinaidu and others against whom the complaints were filed, have preferred appeals vide Criminal Appeal Nos. 587, 907,971 of 1999, 1607, 1658 to 1666 of 2000, 7 to 16, 170, 269, 361, 363 of 2001, Criminal M.P. Nos. 5375 to 5377 of 2001 under section 341 of the Code of Criminal Procedure, 1973 challenging the competence of District Judge in conducting enquiry under section 340 of the Code of Criminal Procedure, 1973, into the said matter and filing complaints, the Division Bench of the Hon'ble High Court allowed the appeals vide common order dated 27.9.2002 which is as follows :-

> "In the light of what has been stated herein above we set-aside the order passed by the District Judge, but in the facts of the circumstances of the case direct the Registrar to place the matter before the Hon'ble Chief Justice who place the matter before an appropriate bench for orders under section 340 Criminal Procedure Code, 1973. Decidedly, the court under Land Acquisition Act, is a court subordinate to the High Court as all appeals lie to the High Court. We would have ordered an enquiry under section 340 of Criminal Procedure Code, 1973 by the Sub-Judge I themselves, but as the matter had earlier been considered by two judges of this court though administratively and the report of committee had been approved by the full court. Therefore, we direct that the matter be heard and decided by the High Court".

7. And whereas, the State of Andhra Pradesh preferred SLP in the Hon'ble Supreme Court against common orders dated 27.9.2002 of the High Court of Andhra Pradesh, Hyderabad vide SLP CC.Nos. **2181-2211/2004**. The Special leave Petition was disposed of on 10.11.2006 upholding the orders of the High Court dated 27.9.2002 and observation of the Hon'ble Supreme Court is as follows :

> "In view of the facts and circumstances of this case, we are, therefore, of the opinion that the Division Bench of the High Court cannot be said to have committed any error in passing the impugned judgment. The appeal is dismissed accordingly. However, keeping in view the fact that the matter is pending for a long time, we would request the High Court to consider the desirability of implementing the decision of the Division bench as expeditiously as possible. However, in the facts and circumstances of this case, there shall be no order as to costs".

8. And whereas, the Hon'ble High court of Andhra Pradesh, passed common orders dated 5.10.2007 and directed Prl. Junior Civil Judge, Anakapalli to file complaints in the Court of the Additional Judicial First Class Magistrate, Anakapalli. The III Additional District and Sessions Judge, Visakhapatnam, where the complaints were filed, closed all the CCs and transferred the entire record to the Principal Junior Civil Judge, Anakapalli as per the orders of the Hon'ble High Court. Basing on the orders of the Hon'ble High Court dt.5.10.2007, the Principal Junior Civil Judge, Anakapalli, has filed 15 complaints in two batches of original petitions before the Additional Judicial First Class Magistrate Court, Anakapalli, vide CC Nos.153 to 160/2010 and 309 to 315/2010 and the complaints in other OPs connected to this case are yet to be filed. On the other side, the CID has filed five [5] petitions in the Hon'ble High Court vide Criminal Petition Numbers. 3422,3423,3424,3425 and 3426 of 2012 seeking orders on various aspects mentioned therein.

(Contid…..3)

9. Consequent on the request of Addl. D.G.P., Crime Investigation Dept., Govt., issued orders in G.O. 12th read above, duly authorizing the Inspector of Police, CID, RCIU, Visakhapatnam to file a petition before the District Judge, Visakhapatnam to further extend the period for attachment of movable and immovable properties for a further period of one year w.e.f. 17.06.2017 to 16.06.2018.

10. And whereas, in view of the above, in the reference 13th read above, the Additional Director General of Police, Crime Investigation Department, Andhra Pradesh has stated that the orders of attachment in Original Petition 1221 of 1998 in respect of movable and immovable properties shall have to be extended for a further period of one year i.e., from **17.06.2018 to 16.06.2019**, to safeguard the scheduled properties till finalization of criminal proceedings, by filing a petition before the District Judge, Visakhapatnam, for the reasons mentioned therein and he requested the Government to authorize the Inspector of Police, Crime Investigation Department, Regional Office, Vishakhapatnam, to file an application for extension of the period of attachment of properties mentioned in the Government Order first read above.

11. Now, therefore, the Government after careful consideration of the proposal of the Additional Director General of Police, CID, Andhra Pradesh, hereby, authorize the Inspector of Police, Crime Investigation Department, Regional Office, Visakhapatnam, to file a petition before the District Judge at Visakhapatnam, under section 3 read with section 10 (a) of the Criminal Law Amendment Ordinance, 1944 (Central Ordinance No.XXXVIII of 1944) to extend the period for attachment in respect of Movable and Immovable properties mentioned in Annexure I, II and III to the G.O. 2nd read above, in all Land Acquisition Original Petitions in which the properties are under attachment, for a further period of one year from **17.06.2018 to 16.06.2019 or till the competent Court takes cognizance of the alleged scheduled Offence**.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.R. ANURADHA,
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Additional Director General of Police,
Crime Investigation Department, Andhra Pradesh, Mangalagiri.
Copy to :-
The Deputy Superintendent of Police, Crime Investigation Department,
Regional Office, Visakhapatnam.
The Law (E) Department.
sc / sf

//FORWARDED:: BY ORDER//

SECTION OFFICER (SC)